

STATE OF MICHIGAN
COURT OF APPEALS

NASRIN MARZBAN,

Plaintiff-Appellant,

and

AYOUB SALMASI,

Plaintiff,

v

AUTO OWNERS INSURANCE COMPANY,

Defendant-Appellee.

UNPUBLISHED

August 18, 2005

No. 253254

Washtenaw Circuit Court

LC No. 00-000785-CK

Before: Zahra, P.J., and Cavanagh and Owens, JJ.

PER CURIAM.

Plaintiff Nasrin Marzban appeals as of right from the judgment excluding the amount of the attorney fees and costs awarded as case evaluation sanctions in calculating the amount of prejudgment interest under MCL 600.6013(8). We reverse and remand for recalculation of the award of prejudgment interest. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff was seriously injured in an automobile accident. She sued the at-fault driver and collected the policy limits of \$25,000. Plaintiff had an underinsured motorist insurance policy issued by defendant for \$500,000. She sued defendant for \$475,000 in underinsured driver benefits. The case was evaluated at \$275,000. Plaintiff accepted the evaluation; defendant did not. The jury awarded plaintiff \$475,000, which entitled plaintiff to case evaluation sanctions of actual costs, i.e., attorney fees and costs, under MCR 2.403.

Plaintiff moved to enter judgment. Plaintiff and defendant disputed whether the amount of the attorney fees and costs should be included in calculating the prejudgment interest award under MCL 600.6013(8). The trial court awarded attorney fees and costs but did not include these amounts in calculating the prejudgment interest award because the court found no case law authorizing their inclusion.

Plaintiff appealed, arguing that the plain language of MCL 600.6013(8) requires the inclusion of any awarded attorney fees and costs in calculating prejudgment interest. We agree. If the language of a statute is clear and unambiguous, judicial construction is not permitted and the statute must be enforced as written. *People v Morey*, 461 Mich 325, 330; 603 NW2d 250 (1999). Where the language of the statute is unambiguous, the court presumes that the Legislature intended the meaning expressed. *Id.* In construing a statute, a court may not read anything into the clear statutory language that is not within the manifest intent of the Legislature as derived from the words of the statute. *Id.*

MCL 600.6013(8) provides, in pertinent part:

[F]or complaints filed on or after January 1, 1987, interest on a money judgment recovered in a civil action is calculated at 6-month intervals from the date of filing the complaint at a rate of interest equal to 1% plus the average interest rate paid at auctions of 5-year United States treasury notes . . . and compounded annually
Interest under this subsection is calculated on the entire amount of the money judgment, including attorney fees and other costs. (Emphasis added.)

As our Supreme Court in *Ayar v Foodland Distributors*, 472 Mich 713, 716; 698 NW2d 875 (2005), recently found, MCL 600.6013(8) is clear and unambiguous. The statute does not exclude any attorney fees or costs from the interest calculation. *Id.* at 717. Case evaluation plays a fundamental role in a proceeding that begins when a plaintiff files a complaint; case evaluation sanctions are directly related to the verdict rendered with respect to the complaint, and prejudgment interest on these sanctions is awarded as part of a final judgment against a defendant. *Id.* The Legislature could have excluded attorney fees and costs originating as case evaluation sanctions, but did not. Although the Supreme Court invited the Legislature to reconsider whether interest should be required on mediation sanctions from the date the complaint is filed, *id.* at 718, the current statute includes all attorney fees and other costs. Therefore, plaintiff's attorney fees and costs awarded as case evaluation sanctions should have been included in the judgment interest calculation.

Reversed and remanded for recalculation of the prejudgment interest award to include the amount of actual costs, i.e., attorney fees and costs, awarded as case evaluation sanctions. We do not retain jurisdiction.

/s/ Brian K. Zahra
/s/ Mark J. Cavanagh
/s/ Donald S. Owens